

House File 2443 - Introduced

HOUSE FILE 2443

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2412)

(SUCCESSOR TO HSB 612)

A BILL FOR

1 An Act relating to the programs and duties of the economic
2 development authority by making changes relative to the use
3 of life cycle cost analyses, by making technical changes
4 related to the high quality jobs program, by making changes
5 relative to authority assistance for certain federal small
6 business programs, by allowing counties, cities, and the
7 authority to amend certain economic development enterprise
8 zones agreements, and by making changes to the historic
9 preservation and cultural and entertainment district tax
10 credit, including transferring administrative oversight of
11 the tax credit from the department of cultural affairs to
12 the economic development authority, and including effective
13 date provisions.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I
2 LIFE CYCLE COST ANALYSES

3 Section 1. Section 470.1, Code 2016, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 01. "*Addition*" means new construction equal
6 to or greater than twenty thousand square feet of usable floor
7 space that is heated or cooled by a mechanical or electrical
8 system and is joined to an existing facility.

9 Sec. 2. Section 470.1, subsections 6, 7, and 10, Code 2016,
10 are amended to read as follows:

11 6. "*Facility*" means a building having twenty thousand square
12 feet or more of usable floor space that is heated or cooled
13 by a mechanical or electrical system ~~or any building, system,~~
14 ~~or physical operation which consumes more than forty thousand~~
15 ~~British thermal units (BTUs) per square foot per year.~~

16 7. "*Initial cost*" means the moneys required for the capital
17 construction or renovation of a facility or the construction
18 of an addition.

19 10. "*Renovation*" means a project where ~~additions or~~
20 ~~alterations, that are not additions, to an existing facility~~
21 exceed fifty percent of the value of a facility and will affect
22 an energy system.

23 Sec. 3. Section 470.2, Code 2016, is amended to read as
24 follows:

25 **470.2 Policy — analysis required.**

26 The general assembly declares that energy management is of
27 primary importance in the design of publicly owned facilities.
28 ~~Commencing January 1, 1980~~ On or after the effective date of
29 this division of this Act, a public agency responsible for the
30 construction or renovation of a facility or the construction of
31 an addition shall, in a design begun after that date, include
32 as a design criterion the requirement that a life cycle cost
33 analysis be conducted for the facility. The objectives of the
34 life cycle cost analysis are to optimize energy efficiency at
35 an acceptable life cycle cost. The life cycle cost analysis

1 shall meet the requirements of [section 470.3](#).

2 Sec. 4. Section 470.3, subsection 2, Code 2016, is amended
3 to read as follows:

4 2. A public agency or a person preparing a life cycle cost
5 analysis for a public agency shall ~~consider the methods and~~
6 ~~analytical models provided by the authority and available~~
7 ~~through the commissioner, which are suited to the purpose~~
8 ~~for which the project is intended. Within sixty days of~~
9 ~~final selection of a design architect or engineer, a public~~
10 ~~agency, which is also a state agency under [section 7D.34](#), shall~~
11 ~~notify the commissioner and the authority of the methodology~~
12 ~~to be used to perform the life cycle cost analysis, on forms~~
13 ~~provided by the authority~~ use the methodology set forth in the
14 guidelines established, by rule, by the commissioner.

15 Sec. 5. Section 470.4, Code 2016, is amended to read as
16 follows:

17 **470.4 Analysis approved.**

18 The life cycle cost analysis shall be approved by the public
19 agency before contracts for the construction or renovation
20 of a facility or the construction of an addition are let. A
21 public agency may accept a facility design and shall meet
22 the requirements of [this chapter](#) if the design meets the
23 operational requirements of the agency and provides the optimum
24 life cycle cost. The public agency shall retain a copy of the
25 life cycle cost analysis and a statement justifying a design
26 decision both of which shall be available for public inspection
27 at reasonable hours.

28 Sec. 6. Section 470.6, Code 2016, is amended to read as
29 follows:

30 **470.6 Restriction on use of public funds.**

31 Public funds shall not be used for the construction or
32 renovation of a facility or the construction of an addition
33 unless the design for the work is prepared in accordance with
34 this chapter and the actual construction or renovation of
35 the facility or the construction of the addition meets the

1 requirements of the design.

2 Sec. 7. Section 470.7, Code 2016, is amended to read as
3 follows:

4 **470.7 Life cycle cost analysis — approval.**

5 1. The public agency responsible for the new construction
6 or renovation of a public facility or the construction of an
7 addition to a public facility shall submit a copy of the life
8 cycle cost analysis for review by the commissioner who shall
9 consult with the authority. If the public agency is also a
10 state agency under [section 7D.34](#), comments by the authority
11 or the commissioner, including any recommendation for changes
12 in the analysis, shall, within thirty days of receipt of the
13 analysis, be forwarded in writing to the public agency. If
14 either the authority or the commissioner disagrees with any
15 aspects of the life cycle cost analysis, the public agency
16 affected shall timely respond in writing to the commissioner
17 and the authority. The response shall indicate whether the
18 agency intends to implement the recommendations and, if the
19 agency does not intend to implement them, the public agency
20 shall present its reasons. The reasons may include but are
21 not limited to a description of the purpose of the facility or
22 renovation, preservation of historical architectural features,
23 architectural and site considerations, and health and safety
24 concerns.

25 2. Within thirty days of receipt of the response of the
26 public agency affected, the authority, the commissioner, or
27 both, shall notify in writing the public agency affected of
28 the authority's, the commissioner's, or both's agreement
29 or disagreement with the response. In the event of a
30 disagreement, the authority, the commissioner, or both, shall
31 at the same time transmit the notification of disagreement
32 with response and related papers to the executive council
33 for resolution pursuant to [section 7D.34](#). The life cycle
34 cost analysis process, including submittal and approval, and
35 implementation exemption requests pursuant to [section 470.8](#),

1 shall be completed prior to the letting of contracts for the
2 construction or renovation of a facility or the construction
3 of an addition.

4 Sec. 8. Section 470.8, Code 2016, is amended to read as
5 follows:

6 **470.8 Life cycle cost analysis — implementation and**
7 **exemptions.**

8 1. The public agency responsible for the new construction
9 or renovation of a public facility or the construction of an
10 addition shall implement the recommendations of the life cycle
11 cost analysis.

12 2. The commissioner shall adopt rules for the
13 implementation and administration of the life cycle cost
14 analysis. The commissioner, in consultation with the director,
15 shall, by rule, develop criteria to exempt facilities from
16 the implementation requirements of **this section**. Using the
17 criteria, the commissioner, in cooperation with the director,
18 shall exempt facilities on a ~~case by case~~ case-by-case basis.
19 Factors to be considered when developing the exemption criteria
20 shall include, but not be limited to, a description of the
21 purpose of the facility or renovation, the preservation
22 of historical architectural features, site considerations,
23 and health and safety concerns. The commissioner and the
24 director shall grant or deny a request for exemption from the
25 requirements of **this section** within thirty days of receipt of
26 the request.

27 Sec. 9. EFFECTIVE UPON ENACTMENT. This division of this
28 Act, being deemed of immediate importance, takes effect upon
29 enactment.

30 DIVISION II

31 HIGH QUALITY JOBS PROGRAM — DEFINITION

32 Sec. 10. Section 15.333, subsection 2, unnumbered paragraph
33 1, Code 2016, is amended to read as follows:

34 For purposes of **this section**, ~~"new investment directly~~
35 ~~related to new jobs created by the project"~~ investment means the

1 cost of machinery and equipment, as defined in section 427A.1,
2 subsection 1, paragraphs "e" and "j", purchased for use in the
3 operation of the eligible business, the purchase price of which
4 has been depreciated in accordance with generally accepted
5 accounting principles, the purchase price of real property and
6 any buildings and structures located on the real property, and
7 the cost of improvements made to real property which is used
8 in the operation of the eligible business. "~~New investment~~
9 ~~directly related to new jobs created by the project~~" investment"
10 also means the annual base rent paid to a third-party developer
11 by an eligible business for a period not to exceed ten years,
12 provided the cumulative cost of the base rent payments for that
13 period does not exceed the cost of the land and the third-party
14 developer's costs to build or renovate the building for the
15 eligible business. The eligible business shall enter into a
16 lease agreement with the third-party developer for a minimum
17 of five years. If, however, within five years of purchase,
18 the eligible business sells, disposes of, razes, or otherwise
19 renders unusable all or a part of the land, buildings, or other
20 existing structures for which tax credit was claimed under this
21 section, the tax liability of the eligible business for the
22 year in which all or part of the property is sold, disposed of,
23 razed, or otherwise rendered unusable shall be increased by one
24 of the following amounts:

25 Sec. 11. Section 15.333A, subsection 2, unnumbered
26 paragraph 1, Code 2016, is amended to read as follows:

27 For purposes of [this section](#), "~~new investment directly~~
28 ~~related to new jobs created by the project~~" investment" means the
29 cost of machinery and equipment, as defined in section 427A.1,
30 subsection 1, paragraphs "e" and "j", purchased for use in the
31 operation of the eligible business, the purchase price of which
32 has been depreciated in accordance with generally accepted
33 accounting principles, the purchase price of real property and
34 any buildings and structures located on the real property, and
35 the cost of improvements made to real property which is used

1 in the operation of the eligible business. "~~New investment~~
2 ~~directly related to new jobs created by the project~~" investment"
3 also means the annual base rent paid to a third-party developer
4 by an eligible business for a period not to exceed ten years,
5 provided the cumulative cost of the base rent payments for that
6 period does not exceed the cost of the land and the third-party
7 developer's costs to build or renovate the building for the
8 eligible business. The eligible business shall enter into a
9 lease agreement with the third-party developer for a minimum
10 of five years. If, however, within five years of purchase,
11 the eligible business sells, disposes of, razes, or otherwise
12 renders unusable all or a part of the land, buildings, or other
13 existing structures for which tax credit was claimed under this
14 section, the tax liability of the eligible business for the
15 year in which all or part of the property is sold, disposed of,
16 razed, or otherwise rendered unusable shall be increased by one
17 of the following amounts:

18 DIVISION III

19 FEDERAL SMALL BUSINESS PROGRAMS — AUTHORITY ASSISTANCE

20 Sec. 12. Section 15.411, subsection 4, paragraphs a, b, and
21 c, Code 2016, are amended to read as follows:

22 a. (1) The authority shall establish and administer an
23 outreach program for purposes of assisting businesses with
24 applications to the federal small business innovation research
25 and small business technology transfer programs.

26 (2) The goals of this assistance are to increase the number
27 of successful ~~phase II small business innovation research grant~~
28 and contract proposals in the state, increase the amount of
29 such grant and contract funds awarded in the state, stimulate
30 subsequent investment by industry, venture capital, and other
31 sources, and encourage businesses to commercialize promising
32 technologies.

33 b. (1) In administering the program, the authority may
34 provide technical and financial assistance to businesses.
35 Financial assistance provided pursuant to [this subsection](#)

1 ~~shall~~ may be awarded to a business in an amount not to exceed
2 ~~twenty-five~~ one hundred thousand dollars ~~to~~ for any single
3 ~~business individual federal award under this subsection.~~

4 (2) The authority may require successful applicants to
5 repay the amount of financial assistance received, but shall
6 not require unsuccessful applicants to repay such assistance.
7 Any moneys repaid pursuant to this subsection may be used to
8 provide financial assistance to other applicants.

9 c. The authority may also provide financial assistance
10 for purposes of helping businesses meet the ~~matching funds~~
11 requirements of the federal small business innovation research
12 and small business technology transfer programs.

13 DIVISION IV

14 ENTERPRISE ZONES

15 Sec. 13. 2014 Iowa Acts, chapter 1130, section 43,
16 subsection 1, is amended to read as follows:

17 1. On or after the effective date of this division of this
18 Act, a city or county shall not create an enterprise zone under
19 chapter 15E, division XVIII, or enter into a new agreement ~~or~~
20 ~~amend an existing agreement~~ under chapter 15E, division XVIII.
21 A city or county and the economic development authority, with
22 the approval of the economic development authority board, may
23 amend an agreement for compliance reasons if the amendment
24 does not increase the amount of incentives awarded under the
25 agreement.

26 DIVISION V

27 HISTORIC PRESERVATION AND CULTURAL AND ENTERTAINMENT DISTRICT

28 TAX CREDIT

29 Sec. 14. Section 404A.1, Code 2016, is amended by adding the
30 following new subsection:

31 NEW SUBSECTION. 01. "*Authority*" means the economic
32 development authority created in section 15.105.

33 Sec. 15. Section 404A.2, subsection 1, Code 2016, is amended
34 to read as follows:

35 1. An eligible taxpayer who has entered into an agreement

1 under [section 404A.3, subsection 3](#), is eligible to receive a
2 historic preservation and cultural and entertainment district
3 tax credit in an amount equal to twenty-five percent of
4 the qualified rehabilitation expenditures of a qualified
5 rehabilitation project that are specified in the agreement.
6 Notwithstanding any other provision of [this chapter](#) or any
7 provision in the agreement to the contrary, the amount of
8 the tax credits shall not exceed twenty-five percent of the
9 final qualified rehabilitation expenditures verified by the
10 ~~department~~ authority pursuant to [section 404A.3, subsection 5](#),
11 paragraph "c".

12 Sec. 16. Section 404A.2, Code 2016, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 2A. *a.* Tax credit certificates issued
15 under section 404A.3 may be transferred to any person. Within
16 ninety days of transfer, the transferee shall submit the
17 transferred tax credit certificate to the department of revenue
18 along with a statement containing the transferee's name, tax
19 identification number, address, the denomination that each
20 replacement tax credit certificate is to carry, and any other
21 information required by the department of revenue. However,
22 tax credit certificate amounts of less than the minimum amount
23 established by rule by the department of revenue shall not be
24 transferable.

25 *b.* Within thirty days of receiving the transferred tax
26 credit certificate and the transferee's statement, the
27 department of revenue shall issue one or more replacement tax
28 credit certificates to the transferee. Each replacement tax
29 credit certificate must contain the information required for
30 the original tax credit certificate and must have the same
31 expiration date that appeared on the transferred tax credit
32 certificate.

33 *c.* A tax credit shall not be claimed by a transferee
34 under this section until a replacement tax credit certificate
35 identifying the transferee as the proper holder has been

1 issued. The transferee may use the amount of the tax credit
2 transferred against the taxes imposed in chapter 422, divisions
3 II, III, and V, and in chapter 432, for any tax year the
4 original transferor could have claimed the tax credit. Any
5 consideration received for the transfer of the tax credit shall
6 not be included as income under chapter 422, divisions II, III,
7 and V. Any consideration paid for the transfer of the tax
8 credit shall not be deducted from income under chapter 422,
9 divisions II, III, and V.

10 Sec. 17. Section 404A.2, subsection 3, Code 2016, is amended
11 to read as follows:

12 3. Any For a tax credit claimed by an eligible taxpayer
13 or a transferee for qualified rehabilitation projects with
14 agreements entered into on or after July 1, 2014, any credit in
15 excess of the taxpayer's tax liability for the tax year shall
16 be refunded with interest computed under ~~section 422.25~~. In
17 lieu of claiming a refund, a taxpayer may elect to have the
18 overpayment shown on the taxpayer's final, completed return
19 credited to the tax liability for the following year may be
20 refunded or, at the taxpayer's election, credited to the
21 taxpayer's tax liability for the following five years or until
22 depleted, whichever is earlier. A tax credit shall not be
23 carried back to a tax year prior to the tax year in which the
24 taxpayer redeems the tax credit.

25 Sec. 18. Section 404A.2, subsection 4, paragraph c, Code
26 2016, is amended to read as follows:

27 c. The tax credit certificate, unless rescinded by the
28 ~~department~~ authority, shall be accepted by the department
29 of revenue as payment for taxes imposed in chapter 422,
30 divisions II, III, and V, and in ~~chapter 432~~, subject to any
31 conditions or restrictions placed by the ~~department~~ authority
32 or the department of revenue upon the face of the tax credit
33 certificate and subject to the limitations of this program.

34 Sec. 19. Section 404A.2, subsection 5, Code 2016, is amended
35 by striking the subsection.

1 Sec. 20. Section 404A.3, subsections 1 and 2, Code 2016, are
2 amended to read as follows:

3 1. *Application and fees.*

4 a. An eligible taxpayer seeking historic preservation
5 and cultural and entertainment district tax credits provided
6 in [section 404A.2](#) shall make application to the ~~department~~
7 authority in the manner prescribed by the ~~department~~ authority.

8 b. The ~~department~~ authority may accept applications on a
9 continuous basis or may accept applications, or one or more
10 components of an application, during one or more application
11 periods.

12 c. The application shall include any information deemed
13 necessary by the authority, in consultation with the
14 department, to evaluate the eligibility under the program
15 of the applicant and the rehabilitation project, the amount
16 of projected qualified rehabilitation expenditures of a
17 rehabilitation project, and the amount and source of all
18 funding for a rehabilitation project. An applicant shall have
19 the burden of proof to demonstrate to the ~~department~~ authority
20 that the applicant is an eligible taxpayer and the project is a
21 qualified rehabilitation project under the program.

22 d. The ~~department~~ authority may establish criteria for the
23 use of electronic or other alternative filing or submission
24 methods for any application, document, or payment requested or
25 required under this program. Such criteria may provide for the
26 acceptance of a signature in a form other than the handwriting
27 of a person.

28 e. (1) The ~~department~~ authority may charge application and
29 other fees to eligible taxpayers who apply to participate in
30 the program. The amount of such fees shall be determined based
31 on the costs of the authority and the department associated
32 with administering the program.

33 (2) Fees collected by the ~~department~~ authority pursuant to
34 this paragraph shall be deposited with the ~~department~~ pursuant
35 ~~to~~ authority notwithstanding [section 303.9, subsection 1.](#)

1 (3) A portion of the fees collected shall be directed by the
2 authority to the department.

3 2. *Registration.*

4 a. Upon review of the application by the authority, the
5 ~~department~~ authority may register a qualified rehabilitation
6 project under the program. If the ~~department~~ authority
7 registers the project, the ~~department~~ authority shall make a
8 preliminary determination as to the amount of tax credits for
9 which the project qualifies.

10 b. After registering the qualified rehabilitation project,
11 the ~~department~~ authority shall notify the eligible taxpayer of
12 successful registration under the program within a period of
13 time established by the authority by rule. The notification
14 shall include the amount of tax credits under [section 404A.2](#)
15 for which the qualified rehabilitation project has received
16 a tentative award and a statement that the amount is a
17 preliminary determination only.

18 Sec. 21. Section 404A.3, subsection 3, paragraph a, Code
19 2016, is amended to read as follows:

20 a. Upon successful registration of a qualified
21 rehabilitation project, the eligible taxpayer shall enter into
22 an agreement with the ~~department~~ authority for the successful
23 completion of all requirements of the program.

24 Sec. 22. Section 404A.3, subsection 3, paragraph b,
25 subparagraph (2), Code 2016, is amended to read as follows:

26 (2) The rehabilitation work to be performed. An eligible
27 taxpayer shall perform the rehabilitation work consistent with
28 the United States secretary of the interior's standards for
29 rehabilitation, as determined by the department.

30 Sec. 23. Section 404A.3, subsection 4, paragraphs a and b,
31 Code 2016, are amended to read as follows:

32 a. The eligible taxpayer shall, for the length of the
33 agreement, annually certify to the ~~department~~ authority
34 compliance with the requirements of the agreement. The
35 certification shall be made at such time as the ~~department~~

1 authority shall determine in the agreement.

2 *b.* The eligible taxpayer shall have the burden of proof to
3 demonstrate to the ~~department~~ authority that all requirements
4 of the agreement are satisfied. The taxpayer shall notify
5 the ~~department~~ authority in a timely manner of any changes
6 in the qualification of the rehabilitation project or in
7 the eligibility of the taxpayer to claim the tax credit
8 provided under [this chapter](#), or of any other change that may
9 have a negative impact on the eligible taxpayer's ability to
10 successfully complete any requirement under the agreement.

11 Sec. 24. Section 404A.3, subsection 4, paragraph c,
12 subparagraphs (1) and (2), Code 2016, are amended to read as
13 follows:

14 (1) If after entering into the agreement but before a
15 tax credit certificate is issued, the eligible taxpayer or
16 the qualified rehabilitation project no longer meets the
17 requirements of the agreement, the ~~department~~ authority may
18 find the taxpayer in default under the agreement and may revoke
19 the tax credit award.

20 (2) If an eligible taxpayer obtains a tax credit certificate
21 from the ~~department~~ authority by way of a prohibited activity,
22 the eligible taxpayer ~~and any transferee~~ shall be ~~jointly and~~
23 ~~severally~~ liable to the state for the amount of the tax credits
24 so issued, interest and penalties allowed under [chapter 422](#),
25 and reasonable attorney fees and litigation costs, ~~except~~
26 ~~that the liability of the transferee shall not exceed an~~
27 ~~amount equal to the amount of the tax credits acquired by the~~
28 ~~transferee.~~ The department of revenue, upon notification
29 or discovery that a tax credit certificate was issued to an
30 eligible taxpayer by way of a prohibited activity, shall revoke
31 any outstanding tax credit and seek repayment from the eligible
32 taxpayer of the value of any tax credit already claimed, and
33 the failure to make such a repayment may be treated by the
34 department of revenue in the same manner as a failure to pay
35 the tax shown due or required to be shown due with the filing

1 of a return or deposit form. A ~~qualifying~~ transferee is ~~not~~
2 subject to the liability, revocation, and repayment imposed
3 under this subparagraph if the transferee had actual notice,
4 prior to transfer of the tax credit, of misrepresentation,
5 fraud, or any unlawful act or omission by the eligible
6 taxpayer.

7 Sec. 25. Section 404A.3, subsection 4, paragraph c,
8 subparagraph (3), Code 2016, is amended by striking the
9 subparagraph and inserting in lieu thereof the following:

10 (3) For the purposes of this paragraph, "*prohibited*
11 *activity*" means a breach or default under the agreement with
12 the authority, the violation of any warranty provided by
13 the eligible taxpayer to the authority or the department
14 of revenue, the claiming of a tax credit issued under this
15 chapter for expenditures that are not qualified rehabilitation
16 expenditures, the violation of any requirements of this chapter
17 or rules adopted pursuant to this chapter, misrepresentation,
18 fraud, or any other unlawful act or omission.

19 Sec. 26. Section 404A.3, subsections 5, 6, and 7, Code 2016,
20 are amended to read as follows:

21 5. *Examination ~~and audit~~ of project.*

22 a. An eligible taxpayer shall engage a certified public
23 accountant authorized to practice in this state to conduct an
24 examination of the project in accordance with the American
25 institute of certified public accountants' statements on
26 standards for attestation engagements. Upon completion of the
27 qualified rehabilitation project, the eligible taxpayer shall
28 submit the examination to the ~~department~~ authority, along with
29 a statement of the amount of final qualified rehabilitation
30 expenditures and any other information deemed necessary by
31 the ~~department or the department of revenue~~ authority in
32 order to verify that all requirements of the agreement, this
33 chapter, and all rules adopted pursuant to **this chapter** have
34 been satisfied. The authority shall adopt rules governing
35 examinations required under this subsection.

1 *b.* Notwithstanding paragraph "a", the ~~department~~ authority
2 may waive the examination requirement in this subsection if all
3 the following requirements are satisfied:

4 (1) The final qualified rehabilitation expenditures of the
5 qualified rehabilitation project, as verified by the ~~department~~
6 authority, do not exceed one hundred thousand dollars.

7 (2) The qualified rehabilitation project is funded
8 exclusively by private funding sources.

9 *c.* Upon review of the examination, if applicable, the
10 ~~department~~ authority shall verify that all requirements of
11 the agreement, this chapter, and all rules adopted pursuant
12 to this chapter have been satisfied and shall verify the
13 amount of final qualified rehabilitation expenditures. ~~After~~
14 ~~consultation with the department of revenue, the department may~~
15 ~~issue a tax credit certificate to the eligible taxpayer stating~~
16 ~~the amount of tax credit under section 404A.2 the eligible~~
17 ~~taxpayer may claim. The department~~ If the authority determines
18 that all requirements of the agreement, this chapter, and all
19 rules adopted pursuant to this chapter have been satisfied and
20 it has verified the amount of final qualified rehabilitation
21 expenditures, the authority shall issue the a tax credit
22 ~~certificate not later than sixty days following the completion~~
23 ~~of the examination review, if applicable, and the verifications~~
24 ~~and consultation required under this paragraph to the eligible~~
25 ~~taxpayer stating the amount of the credit under section 404A.2~~
26 the eligible taxpayer may claim.

27 6. Waivers. Notwithstanding any other provision of this
28 chapter to the contrary, the ~~department~~ authority may waive
29 the requirements of subsections 1 through 4, except the
30 requirements relating to allowable cost overruns in subsection
31 3, paragraph "b", subparagraph (3), and the requirements
32 in subsection 4, paragraphs "b" and "c", for qualified
33 rehabilitation projects with final qualified rehabilitation
34 expenditures of seven hundred fifty thousand dollars or less
35 and may establish by rule different application, registration,

1 agreement, compliance, or other requirements relating to such
2 projects.

3 7. Amendments. The ~~department~~ authority may for good cause
4 amend an agreement.

5 Sec. 27. Section 404A.4, subsection 1, paragraph a, Code
6 2016, is amended to read as follows:

7 a. Except as provided in [subsections 2 and 3](#), the ~~department~~
8 authority shall not award in any one fiscal year an amount of
9 tax credits provided in [section 404A.2](#) in excess of forty-five
10 million dollars.

11 Sec. 28. Section 404A.4, subsection 3, paragraph a, Code
12 2016, is amended to read as follows:

13 a. If during the fiscal year beginning July 1, 2016, or
14 any fiscal year thereafter, the ~~department~~ authority awards
15 an amount of tax credits that is less than the maximum
16 aggregate tax credit award limit specified in [subsection 1](#),
17 the difference between the amount so awarded and the amount
18 specified in [subsection 1](#), not to exceed ten percent of the
19 amount specified in [subsection 1](#), may be carried forward to the
20 succeeding fiscal year and awarded during that fiscal year.

21 Sec. 29. Section 404A.5, subsections 1 and 3, Code 2016, are
22 amended to read as follows:

23 1. The ~~department~~ authority, in consultation with the
24 department of revenue, shall be responsible for keeping the
25 general assembly and the legislative services agency informed
26 on the overall economic impact to the state of qualified
27 rehabilitation projects.

28 3. The ~~department~~ authority, to the extent it is able, shall
29 provide recommendations on whether the limit on tax credits
30 should be changed, the need for a broader or more restrictive
31 definition of qualified rehabilitation project, and other
32 adjustments to the tax credits under [this chapter](#).

33 Sec. 30. Section 404A.6, Code 2016, is amended to read as
34 follows:

35 **404A.6 Rules.**

1 commissioner to also adopt rules for the implementation and
2 adoption of the life cycle cost analysis. The division takes
3 effect upon enactment.

4 Division II of the bill makes technical changes related to
5 the definition of a "new investment" under the high quality
6 jobs program.

7 Division III of the bill relates to the authority's business
8 outreach program, which provides technical and financial
9 assistance to businesses applying for federal small business
10 innovation research and small business technology transfer
11 program grants and contracts.

12 Under current law, the authority is allowed to provide
13 financial assistance of up to \$25,000 to any single business
14 and is allowed to provide such financial assistance as matching
15 funds to allow a business to qualify for either federal
16 program. The division provides that the authority may provide
17 financial assistance of up to \$100,000 to a business for any
18 individual federal award under those programs and that the
19 financial assistance may be used for any purpose to allow a
20 business to meet federal program requirements.

21 Division IV of the bill relates to enterprise zones.
22 The division allows a city or county and the authority
23 for compliance reasons to amend agreements made under the
24 enterprise zone program as long as the amendments do not
25 increase the amount of incentives awarded and the economic
26 development authority board approves.

27 Division V of the bill relates to the historic preservation
28 and cultural and entertainment district tax credit by
29 transferring administrative oversight of the tax credit from
30 the department of cultural affairs to the authority. In
31 relation to the tax credit, for qualified rehabilitation
32 projects with agreements entered into on or after July 1, 2014,
33 the division allows a taxpayer to elect to receive a refund of
34 any credit in excess of the taxpayer's liability or to credit
35 the excess against the tax liability for the following five

1 years or until depleted, whichever is earlier. Under current
2 law, the credit is refundable with interest, but, in lieu of a
3 refund, the excess may be credited against tax liability for
4 the following year.

5 Current law allows the state to recapture the amount of
6 the tax credit, along with interest, penalties, attorney
7 fees, and litigation costs, if the original holder of the
8 tax credit certificate obtained the tax credit by way of a
9 prohibited activity. The division strikes joint and several
10 liability provisions under current law, as applied to bona fide
11 purchasers of such tax credits, but maintains liability for
12 transferees with actual notice of misrepresentation, fraud, or
13 unlawful acts or omissions by the original holder of the tax
14 credit certificate prior to the transfer.

15 The division makes additional changes related to
16 definitions, to taxpayer notifications, to rehabilitation work
17 standards, and to verification and credit issuance processes.
18 Under the division, the department of cultural affairs will
19 receive a portion of application and program fees and is
20 required to consult with the authority on certain historic
21 preservation and cultural and entertainment district tax credit
22 processes.